

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:06-CR-00119-RJC

USA

v.

PHUC VAN TRAN

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ORDER

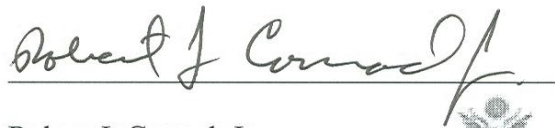
THIS MATTER is before the Court upon motion of the defendant pro se for a reduction of sentence based on retroactive amendments to the United States Sentencing Guidelines regarding to drug offenses, (Doc. Nos. 59), counsel's Notice of Ineligibility, (Doc. No. 61), and related pleadings.

The defendant's plea to drug and firearm offenses resulted in a total offense level of 19, a criminal history category of II, and an advisory guideline range of 33-41 months. (Doc. No. 62: Supplemental Presentence Report at 1). The Court imposed a sentence of 60 months based on the parties' agreement to a variance above the range. (Doc. No. 42: Plea Agreement at 2; Doc. No. 54: Judgment at 2). Although the drug offense level has been reduced by the 2014 amendments, USSG Supp. to Appx. C., Amend. 782 (2014), the total offense level and guideline range remain the same. (Doc. No. 62: Supplemental Presentence Report at 2; Doc. No. 61: Notice of Ineligibility at 1). Accordingly, the defendant is not eligible for a sentence reduction. United States v. Munn, 595 F.3d 183, 187 (4th Cir. 2010); USSG §1B1.10 comment. (n.1(A)(ii)) (defendant not eligible for reduction where another guideline provision prevents lowering of guideline range).

IT IS, THEREFORE, ORDERED that the defendant's motion, (Doc. No. 59), is
DENIED.

The Clerk is directed to certify copies of this order to the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: July 30, 2015

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

